

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRANCISCO ESPINOZA and
KIMBERLY ESPINOZA,

Plaintiffs,

v.

Case No.

UPS GROUND FREIGHT, INC., d/b/a UPS
FREIGHT; CHRIS BISHOP; UNIVERSITY
OF NEW MEXICO HOSPITAL; and DR.
JOHN DOES 1-5;

Defendants.

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ON NOTICE TO:

JONES, SNEAD, WERTHEIM & CLIFFORD, P.A.

Jerry Todd Wertheim, Esq.

Samuel C. Wolf, Esq.

1800 Old Pecos Trail

Santa Fe, NM 87505

and

HEARD ROBINS CLOUD LLP

Justin R. Kaufman, Esq.

Rosalind B. Bienvenu, Esq.

505 Cerrillos Rd., Suite A209

Santa Fe, NM 87501

Attorneys for Plaintiffs

PLEASE TAKE NOTICE UPS Ground Freight, Inc. ("UPS Freight") and Chris Bishop (collectively "the UPS Defendants") hereby file the following Notice of Removal of the above-

captioned matter currently pending in the County of Santa Fe, First Judicial District Court, Case No. D-101-CV-2017-00382, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, with full reservation of any and all objections. In support of this Notice of Removal, the UPS Defendants respectfully show as follows:

I. PROCEDURAL HISTORY

1. The above-captioned case commenced when Plaintiffs Francisco Espinoza and Kimberly Espinoza (“Plaintiffs”), filed a Complaint in the County of Santa Fe, First Judicial District Court on or about February 9, 2017 (the “Complaint”). (*See* Compl., attached as Ex. A).

2. The Clerk for the First Judicial District Court issued a Summons on or about February 24, 2017. (*See* Summons, attached as Ex. B).

3. The Complaint asserts claims against the UPS Defendants sounding in negligence arising out of a motor vehicle accident that occurred on September 24, 2014. (*See* Compl. at ¶ 4, Count 1, & Count 2).

4. The Complaint also asserts claims against the University of New Mexico Hospital (“UNMH”) and Dr. John Does 1-5 sounding in medical malpractice. (*See id.* at ¶ 20, Count 5, & Count 6).

II. TIMELINESS OF REMOVAL

5. UPS Freight was served with the Summons and Complaint on March 17, 2017. (*See* Notice of Service of Process, attached as Ex. C).

6. Mr. Bishop was served with the Summons and Complaint on March 21, 2017. (*See* Summons with handwritten note regarding date of service, attached as Ex. D).

7. Accordingly, this Notice of Removal is filed within 30 days of receipt by the UPS Defendants, through service or otherwise, of the Complaint.

8. This Notice of Removal, therefore, is timely. *See* 28 U.S.C. § 1446(b) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”).

III. BASIS FOR REMOVAL

9. This Court has original diversity jurisdiction over this action because: (1) the properly joined parties in this action are citizens of different states; and (2) the matter in controversy, excluding interest and costs, exceeds the sum or value of \$75,000. *See* 28 U.S.C. § 1332(a).

10. As set forth herein, the claims against UNMH/Dr. John Does 1-5 and the UPS Defendants are entirely distinct claims under Fed. R. Civ. P. 20 and constitute procedural misjoinder. As such, this Court should: (1) sever the medical malpractice claims against UNMH and Dr. John Does 1-5 from the negligence claims against the UPS Defendants because they are misjoined; and (2) retain jurisdiction over Plaintiffs’ negligence claims against the UPS Defendants.

A. Diversity of Citizenship

(1) The Proper Parties in this Action are Citizens of Different States.

11. As alleged in the Complaint, Plaintiffs Francisco Espinoza and Kimberly Espinoza reside in Sandoval County, New Mexico. (*See* Compl. at ¶ 1). Plaintiffs are therefore citizens of New Mexico.

12. UPS Freight is incorporated under the laws of the Commonwealth of Virginia and has its principal place of business in Richmond, Virginia. UPS Freight is therefore a citizen of Virginia.

13. Mr. Bishop resides in West Valley, Utah. (*See* Compl. at ¶ 3). Mr. Bishop is therefore a citizen of Utah.

14. The diversity of citizenship requirement between Plaintiffs and the UPS Defendants is satisfied. *See* 28 U.S.C. § 1332(a).

(2) UNMH and Dr. John Does 1-5 are Procedurally Misjoined and their Citizenship does not Defeat Diversity of Citizenship.

15. Plaintiffs' claims against the UPS Defendants are for negligence as a result of a motor vehicle accident that occurred on September 24, 2014. (*See* Compl. at ¶ 4, Count 1, & Count 2).

16. Plaintiffs' claims against Dr. John Does 1-5 and UNMH are for medical malpractice as a result of "Doctor John Does¹ at UNMH fail[ure] to diagnose Plaintiff's broken left wrist" during "follow-up treatment and care" from the accident. (*See id.* at ¶ 20, Count 5, & Count 6).

17. The claims against the UPS Defendants and UNMH/Dr. John Does 1-5 are entirely distinct claims under Fed. R. Civ. P. 20. The claims have not been properly brought in the same lawsuit and constitute procedural misjoinder. This court should sever the claims against UNMH and Dr. John Does 1-5 pursuant to Fed. R. Civ. P. 21 and retain jurisdiction over the claims against the UPS Defendants.

(a) Doctrine of Procedural Misjoinder.

18. Procedural misjoinder "occurs when a plaintiff sues a diverse defendant in state court and joins a non-diverse or in-state defendant even though the plaintiff has no reasonable

¹ Of note, pursuant to 28 U.S.C. § 1441(b)(1), the citizenship of Dr. John Does 1-5 "shall be disregarded." 28 U.S.C. § 1441(b)(1) ("In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded."); *see also McPhail v. Deere & Co.*, 529 F.3d 947, 951 (10th Cir. 2008) ("Under the federal removal statutes the presence of "John Doe" defendants at the commencement of an action creates no impediment to removal."). Indeed, Plaintiffs do not set forth the residences of Dr. John Does 1-5 in their Complaint. (*See* Compl.)

procedural basis to join such defendants in one action.” *McDaniel v. Loya*, 304 F.R.D. 617, 632–33 (D.N.M. 2015) (quoting E. Farish Percy, *Defining the Contours of the Emerging Fraudulent Misjoinder Doctrine*, 29 Harv. J.L. & Pub. Pol’y 569, 572 (2006)).

19. “Thus, in a case where the joined claims are totally unrelated, a federal district court may find removal jurisdiction pursuant to the [procedural] misjoinder doctrine even though the plaintiff has a reasonable substantive basis for the claim against the jurisdictional spoiler.” *Id.* (quoting E. Farish Percy, *Defining the Contours of the Emerging Fraudulent Misjoinder Doctrine*, 29 Harv. J.L. & Pub. Pol’y 569, 572 (2006)).

20. The District of New Mexico first adopted the procedural misjoinder doctrine in *Flores-Duenas v. Briones* as it applies to “cases where the nondiverse defendant is also a citizen of the State in which the plaintiffs first brought the action.” No. CIV 13-0660 JB/CG, 2013 WL 6503537, at *1 (D.N.M. Dec. 1, 2013).

21. To determine whether a defendant is properly joined, the *Flores-Duenas* court noted that “it is appropriate to apply the federal joinder standard” under Fed. R. Civ. P. 20. *Id.* at *37.

22. Where a defendant is misjoined under Fed. R. Civ. P. 20, the court may sever the claim against the misjoined party pursuant to Fed. R. Civ. P. 21. *See Flores-Duenas* 2013 WL 6503537, at *36 (“[I]f the claims against the nondiverse defendant are misjoined, the Court ‘drops’ . . . the party”); *see also* Fed. R. Civ. P. 21 (“On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party.”).

(b) The Claims Against UNMH and Dr. John Does 1-5 are Procedurally Misjoined and Should be Severed from This Action Pursuant to Fed. R. Civ. P. 21.

23. Fed. R. Civ. P. 20(a)(2) states, in pertinent part as follows:

[P]ersons . . . may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.”

Fed. R. Civ. P. 20(a)(2).

24. Here, UNMH and Dr. John Does 1-5 are misjoined because: (1) the negligence and medical malpractice claims arise out of separate occurrences or transactions; and (2) the claims do not involve questions of law or fact common against each Defendant.

25. First, with respect to the “same transaction/occurrence” prong, the essence of the claims against the UPS Defendants arise out of the September 24, 2014 motor vehicle accident. UNMH and the physicians who treated Mr. Espinoza have no connection whatsoever to how the motor vehicle accident occurred. Indeed, the evidence supporting the negligence claims against the UPS Defendants will be entirely different from the medical malpractice claims against UNMH and Dr. John Does 1-5. The claims against the UPS Defendants will require evidence on whether Mr. Bishop acted reasonably under the circumstances during his operation of his motor vehicle on September 24, 2014, whereas the medical malpractice claims will require evidence of the physicians’ care, treatment, and services provided to Mr. Espinoza at some point after the motor vehicle accident. As such, the negligence and medical malpractice claims do not arise out of the same transaction or occurrence. *See* Fed. R. Civ. P. 20(a)(2)(A).

26. Second, with respect to the “common question of law or fact” prong, any liability that may be found against UNMH and Dr. John Does 1-5 will not be a basis for imposing

liability against the UPS Defendants. Stated differently, whether UNMH and/or Dr. John Does 1-5 are found liable for medical malpractice has no effect on whether the UPS Defendants are found liable for negligence. The legal theories are distinct. The evidence required to support each claim is entirely different. As such, the negligence and medical malpractice claims do not involve common questions of law or fact. *See* Fed. R. Civ. P. 20(a)(2)(B).

B. Value of Matter in Controversy

27. Plaintiff Francisco Espinoza alleges that he suffered “severe physical injuries”, “extensive burns”, and “extreme emotional trauma” as a result of the motor vehicle accident. (*See* Complaint at ¶ 19).

28. As a result of these alleged injuries, Plaintiffs seek the following damages against UPS Freight: (a) “[c]ompensatory damages, including but not limited to past and future medical expenses, pain and suffering, loss of earnings and earning potential, loss of services of a spouse, loss of consortium, compensation for the nature, extent, and duration of the injury, impairment, permanent disfigurement, and loss of enjoyment of life”; and (b) “[p]re-judgment interest, post-judgment interest, and Plaintiff’s costs of suit, as allowed by law.” (*See* Complaint at ¶ 39(a)-(b)).

29. In addition to the foregoing, Plaintiffs also allege that they are entitled to punitive damages against UPS Freight. (*See* Complaint at ¶ 40).

30. Finally, Plaintiffs allege a claim for loss of spousal consortium, claiming that Plaintiff Kimberly Espinoza “has suffered damages from the loss of Mr. Espinoza’s society, companionship, intimate relations and guidance.” (*See* Complaint at ¶ 53).

31. Considering Plaintiffs' allegations in their Complaint -- including those regarding "extensive burns," "permanent disfigurement," past and future medical expenses, and punitive damages -- it is clear that the value of the matter in controversy in this case exceeds \$75,000.00.²

32. Thus, pursuant to 28 U.S.C. § 1332(a), this Court has jurisdiction over this matter in that the properly joined parties hereto are citizens of different states and the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00.

IV. CONSENT TO REMOVAL

33. The UPS Defendants need not obtain consent for removal from UNMH or Dr. John Does 1-5, insofar as this action is being removed based upon the doctrine of procedural misjoinder. *See Flores-Duenas*, 2013 WL 6503537, at *35 ("[T]he Court also agrees that procedural misjoinder is an exception to the normal rule requiring all defendants to consent to removal.").

34. Insofar as UPS Freight and Mr. Bishop are the remaining non-fictitious defendants, all proper defendants consent to the removal of this action. *See* 28 U.S.C. § 1446(b)(2)(A).

V. NOTICE TO ADVERSE PARTIES AND STATE COURT

35. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, the UPS Defendants will give written notice of this filing to all parties of record and will file a copy of the Notice of Removal and exhibits thereto with the District Court Clerk of the County of Santa Fe, First Judicial District Court.

² The UPS Defendants deny all liability, and deny Plaintiffs are entitled to the relief sought in the Complaint. *See, e.g., McPhail v. Deere & Co.*, 529 F.3d 947, 956 (10th Cir. 2008) ("The amount in controversy is not proof of the amount the plaintiff will recover. Rather, it is an estimate of the amount that will be put at issue in the course of the litigation.").

VI. FILINGS FROM STATE COURT DOCKET

36. Pursuant to 28 U.S.C. § 1446(a), “all process, pleadings, and orders” are attached hereto (*See* State Court Docket, Ex. E).

VII. JURY DEMAND

37. The UPS Defendants further demand a trial by jury on all issues so triable.

WHEREFORE, the UPS Defendants respectfully request the above action now pending in the First Judicial District Court, County of Santa Fe, be removed to this Court and the claims against UNMH and Dr. John Does 1-5 be severed from this action pursuant to Fed. R. Civ. P. 21.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ Monica R. Garcia
Monica R. Garcia
Attorneys for Defendants
UPS Ground Freight d/b/a UPS Freight
and Chris Bishop
P.O. Box 3170
Albuquerque, NM 87190
(505) 884-0777
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Removal was served on this 27th day of March, 2017, via the Court's electronic filing system and United States first-class mail, postage pre-paid, upon the following:

JONES, SNEAD, WERTHEIM & CLIFFORD, P.A.

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Attorneys for Plaintiffs

/s/ Monica R. Garcia
Monica R. Garcia
mrgarcia@btblaw.com

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

FRANCISCO ESPINOZA and KIMBERLY ESPINOZA

(b) County of Residence of First Listed Sandoval County, New Mexico

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does 1-5

County of Residence of First Listed Defendant Richmond, VA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Jerry Todd Wertheim
Samuel C. Wolf
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II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For Diversity Cases Only)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUITE (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 480 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housings Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395 ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity.):
Title 28 Section 1332(a)

Brief description of cause:
Negligence

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in Complaint

JURY DEMAND: ☐ YES ☒ NO**VIII. RELATED CASE(S) IF ANY** (See instructions)

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

March 27, 2017

/s/ Monica R. Garcia

Exhibit “A”

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/9/2017 2:05:51 PM
STEPHEN T. PACHECO
Jorge Montes

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

FRANCISCO ESPINOZA and
KIMBERLY ESPINOZA,

Plaintiffs,

vs.

Case No. D-101-CV-2017-00382

UPS GROUND FREIGHT, INC.,
D/B/A UPS FREIGHT; CHRIS BISHOP;
UNIVERSITY OF NEW MEXICO
HOSPITAL; and DR. JOHN DOES 1-5;

Case assigned to Thomson, David K.

Defendants.

COMPLAINT FOR PERSONAL INJURY,
LOSS OF SPOUSAL CONSORTIUM AND PUNITIVE DAMAGES

Plaintiffs Francisco Espinoza and Kimberly Espinoza, by and through their attorneys of record at Jones, Snead, Wertheim & Clifford, P.A. (Jerry Todd Wertheim and Samuel C. Wolf) and Heard Robins Cloud LLP (Justin R. Kaufman and Rosalind B. Bienvenu), hereby state the following as their Complaint for Personal Injury and Punitive Damages:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiffs Francisco Espinoza and Kimberly Espinoza are a married couple and are residents of Sandoval County, New Mexico.
2. Upon information and belief, and at all relevant times, Defendant UPS Ground Freight, Inc., d/b/a UPS Freight (hereinafter "UPS") is a Virginia corporation registered to transact business in the State of New Mexico. UPS may be served with process by serving its

registered agent in the State of New Mexico, Corporations Service Company, 123 East Marcy Street, Suite 101, Santa Fe, New Mexico, 87501.

3. Upon information and belief, Defendant Chris Bishop (hereinafter "Bishop") is a resident of West Valley, Utah. Bishop may be served at his residence, 3528 W. Vespa Drive, West Valley, Utah, 84119.

4. The events giving rise to this Complaint occurred (a) in Sandoval County, New Mexico on September 24, 2014, when a commercial vehicle owned by Defendant UPS and operated by Defendant Bishop hit a commercial vehicle owned by Southern Wine & Spirits of America, Inc. and operated by Plaintiff Francisco Espinoza; and (b) in Bernalillo County, New Mexico, following the motor vehicle accident where Plaintiff Francisco Espinoza was treated for his resulting injuries.

5. The University of New Mexico Hospital ("UNMH") is an arm of the State of New Mexico providing hospital and emergency services in Albuquerque, New Mexico. UNMH may be served by serving a copy of the process to the head of UNMH and to the attorney general.

6. On information and belief, the John or Jane Does, 1-5 ("the Doctor John Does"), are employees of UNMH who at all times pertinent hereto were working in the course and scope of their employment with UNMH.

7. Defendants UPS and UNMH acted by and through their agents, partners, officers, and employees and are responsible for their acts or omissions through the doctrines of respondeat superior and agency.

8. Plaintiffs provided timely notice, where required, under the New Mexico Tort Claims Act.

II. JURISDICTION, VENUE AND JOINDER

9. Jurisdiction over the parties and the subject matter herein is proper with this Court pursuant to Article VI of the New Mexico Constitution and the New Mexico long-arm statute, NMSA 1978, § 38-1-16.

10. Venue is proper in this Court pursuant to NMSA 1978, § 38-3-1(F) because Defendant UPS's designated statutory agent resides in Santa Fe County, and pursuant to Section 41-4-18(B) providing venue for any claim against the state or its public employees, pursuant to the Tort Claims Act, in Santa Fe County.

11. Joinder of Plaintiffs' claims against Defendants in this action is proper under NMRA 1-020 because Plaintiffs' claims: (1) arise out of the same transaction, occurrence, or series of transactions or occurrences; and (2) questions of law and fact common to all Defendants will arise in this action.

III. FACTUAL BACKGROUND

12. All previous paragraphs are incorporated by reference.

13. Defendant Bishop is a professional driver who was driving a commercial vehicle owned by Defendant UPS on US 550 in Sandoval County, New Mexico on the morning of September 24, 2014. Defendant Bishop was acting in the course and scope of his employment with Defendant UPS at all relevant times.

14. On September 24, 2014, Plaintiff Francisco Espinoza was driving a vehicle owned by Southern Wine & Spirits of America, Inc. in the left lane of US 550.

15. According to the State of New Mexico Uniform Crash Report, prepared pursuant to NMSA 1978, § 66-7-209, the weather was clear, and the road was dry.

16. In the morning of September 24, 2014, Defendant Bishop pulled off of highway US 550, in a pull-off on a grade, for a break and to take various medications.

17. At approximately 10:00 a.m. on the morning of September 24, 2014, as Defendant Bishop attempted to reenter the highway from the pull-off, he failed to see Plaintiff Francisco Espinoza approaching, and he failed to maintain proper control of his vehicle. He crossed over the right lane and partially into the left lane, colliding with Plaintiff Francisco Espinoza's vehicle in the process.

18. Upon impact, Plaintiff Francisco Espinoza's vehicle exploded and a fire ensued.

19. Plaintiff Francisco Espinoza was initially unable to escape from his burning vehicle and was eventually ejected as the vehicle burned and exploded. Plaintiff Francisco Espinoza suffered severe physical injuries and extensive burns. He also suffered extreme emotional trauma as a result of the accident.

20. Following the accident Plaintiff Francisco Espinoza was treated for his injuries at UNMH. During such treatment and during extensive follow-up treatment and care, Doctor John Does at UNMH failed to diagnose Plaintiff's broken left wrist. Failure to diagnose and promptly treat this injury caused Plaintiff Francisco Espinoza significant pain and physical limitations, and required surgical repair and a prolonged recovery period.

IV. CLAIMS FOR RELIEF

Count 1: **Negligence Against Defendant Bishop**

21. All previous paragraphs are incorporated by reference.

22. On September 24, 2014, Defendant Bishop was operating a commercial vehicle owned and operated by Defendant UPS.

23. Defendant Bishop had a duty to drive in a reasonable and safe manner, to keep a proper lookout, to maintain proper control of his vehicle, and to follow traffic rules in order to prevent foreseeable harm to others, including Plaintiff Francisco Espinoza.

24. Defendant Bishop failed to drive in a reasonable and safe manner, to keep a proper lookout, to maintain proper control of his vehicle, and to follow traffic rules.

25. Defendant Bishop knew or should have known that such conduct posed a risk of harm to others, including Plaintiff Francisco Espinoza.

26. As a result, Defendant Bishop breached the duty he owed to Plaintiff Francisco Espinoza.

27. Defendant Bishop drove in a negligent, careless, reckless, wanton, intentional, willful, and/or grossly negligent manner.

28. Defendant Bishop violated state and federal traffic laws, codes, or regulations without just cause or excuse, and Plaintiff Francisco Espinoza was in the class of persons intended to be protected by said laws.

29. The subject crash was the direct and proximate result of Defendant Bishop's actions, including but not limited to, the following:

- a. Failure to give his full time and attention to the operation of his vehicle;
- b. Failure to operate his vehicle in a reasonable and safe fashion;
- c. Failure to keep a proper lookout;
- d. Failure to keep his vehicle under proper control;
- e. Violation of federal motor carrier rules and regulations, including but not limited to 49 C.F.R. §§ 383.111 and 383.113;

f. Violation of New Mexico statutes and regulations, including but not limited to NMSA 1978, §§ 66-7-322, -324, and -325; and

g. Otherwise acting without the reasonable care required of him under the circumstances.

30. Defendant Bishop's duty of care increases with the severity of danger; thus, his duties were especially high given the large commercial vehicle he was operating and the high standards required of interstate motor carriers.

31. As a direct and proximate result of Defendant Bishop's wrongful conduct, Plaintiff Francisco Espinoza was severely injured, and Plaintiffs suffered damages.

Count 2:
Negligence Against Defendant UPS

32. All previous paragraphs are incorporated by reference.

33. On September 24, 2014, Defendant Bishop was operating a commercial vehicle owned and operated by Defendant UPS.

34. At the time of the crash, Defendant Bishop was acting within the scope of his duties as an employee or agent of Defendant UPS.

35. Defendant UPS may be held liable for the damages caused by the negligent or reckless acts of its employee or agent, Defendant Bishop, under the doctrine of respondeat superior and the law of agency.

36. Defendant UPS also owed independent duties of care to Plaintiff Francisco Espinoza, which it breached by, among other things:

- a. Failing to properly train Defendant Bishop;
- b. Failing to properly monitor Defendant Bishop;

- c. Failing to properly supervise Defendant Bishop;
- d. Failing to properly inspect, repair, and maintain the vehicle driven by Defendant Bishop;
- e. Violating federal motor carrier rules and regulations, including but not limited to 49 C.F.R. §§ 390.11, 392.1, and 392.2.
- f. Violating New Mexico statutes and regulations, including but not limited to NMSA 1978, §§ 65-3-3 and -7; and
- g. Otherwise acting without the reasonable care required of it under the circumstances.

37. In addition to Defendant UPS's liability under the doctrine of respondeat superior and the law of agency, it is also liable to Plaintiff for its independent negligence as stated above.

38. Defendant UPS's negligent, reckless, wanton, intentional, willful, and/or grossly negligent conduct was a direct and proximate cause of this accident, and Plaintiff Francisco Espinoza's severe injuries and Plaintiffs' damages.

39. As a direct and proximate result of Defendants' negligence, as stated above, Plaintiffs seek damages including the following:

- a. Compensatory damages, including but not limited to past and future medical expenses, pain and suffering, loss of earnings and earning potential, loss of services of a spouse, loss of consortium, compensation for the nature, extent, and duration of the injury, impairment, permanent disfigurement, and loss of enjoyment of life; and
- b. Pre-judgment interest, post-judgment interest, and Plaintiff's costs of suit, as allowed by law.

Count 4:
Punitive Damages Against Defendant UPS

40. All previous paragraphs are incorporated by reference.

41. The longevity, scope, and severity of Defendant UPS's acts and omissions and its deliberate indifference with regard to the health and safety of Plaintiff Francisco Espinoza constitute gross negligence, willful, wanton, reckless, malicious, and/or intentional misconduct.

42. Among others, these intentional, malicious, willful, reckless, and/or wanton acts and omissions by Defendant UPS, either singularly or in combination or based on the cumulative conduct of their respective agents and employees, were a cause of Plaintiff Francisco Espinoza's conscious pain and suffering, injuries, and Plaintiffs' damages. Accordingly, Defendant UPS is liable for punitive damages sufficient to punish UPS for its conduct and to deter such conduct in the future.

Count 5:
For Medical Negligence Against Doctor John Does 1-5 Pursuant to the New Mexico Tort Claims Act, NMSA § 41-4-1 et seq.

43. All previous paragraphs are incorporated by reference.

44. Doctor John Does 1-5 had a duty to possess and apply the knowledge, and to use the skill and care, ordinarily exercised by well-qualified doctors practicing in similar circumstances in Albuquerque, New Mexico.

45. When Doctor John Does 1-5 treated Plaintiff Francisco Espinoza for his injuries, but failed to diagnose a broken arm sustained in the accident and failed to treat his broken arm, they did not exercise the level of skill and care ordinarily exercised by well-qualified doctors practicing in similar circumstances in Albuquerque, New Mexico.

46. Plaintiff Francisco Espinoza did not discover, and could not have discovered with reasonable diligence, his arm fracture caused during the 2014 accident until on or about November 17, 2016, when imaging diagnostics revealed the condition.

47. Doctor John Does 1-5's actions, including but not limited to the specific actions described generally throughout this Complaint, constitute a failure to exercise the ordinary skill and care of a well-qualified physician practicing in or around Albuquerque, New Mexico.

48. Doctor John Does 1-5's failure to exercise the ordinary skill and care of a well-qualified physician practicing in or around Albuquerque, New Mexico directly and proximately caused injuries to Plaintiff Francisco Espinoza and Plaintiffs' damages.

Count 6:
Vicarious Liability Against UNMH Pursuant to the New Mexico Tort Claims Act, NMSA § 41-4-1 et seq.

49. All previous paragraphs are incorporated by reference.

50. On information and belief, Doctor John Does 1-5 were all acting within the course and scope of their employment with UNMH at all times pertinent to this complaint.

51. UNMH is responsible for injuries proximately caused by the negligence of its employees, such as Doctor John Does 1-5, when such employees are acting within the course and scope of their employment.

Count 7:
Loss of Spousal Consortium by Kimberly Espinoza

52. All previous paragraphs are incorporated by reference.

53. As a direct and proximate cause of Defendants' negligence, as stated above, Kimberly Espinoza has suffered damages from the loss of Mr. Espinoza's society,

companionship, intimate relations and guidance, for which she should recover in an amount to be determined by the jury.

V. CONCLUSION

WHEREFORE, Plaintiffs request judgment against Defendants for their compensatory damages, punitive damages, pre-judgment and post-judgment interest at the legal rate, attorneys' fees and costs where allowed by law, and such other and further relief as the Court may deem proper.

Respectfully submitted:

**JONES, SNEAD, WERTHEIM &
CLIFFORD, P.A.**

By /s/Jerry Todd Wertheim

Jerry Todd Wertheim
Samuel C. Wolf
1800 Old Pecos Trail
Santa Fe, NM 87505
Telephone: (505) 982-0011
Facsimile: (505) 989-6288
todd@thejonesfirm.com
sam@thejonesfirm.com

Justin R. Kaufman
Rosalind B. Bienvenu
HEARD ROBINS CLOUD LLP
505 Cerrillos Rd., Suite A209
Santa Fe, New Mexico 87501
Telephone: (505) 986-0600
Facsimile: (505) 986-0632
jkaufman@heardrobins.com
rbienvenu@heardrobins.com

Attorneys for Plaintiffs

Exhibit “B”

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/24/2017 11:21:08 AM
STEPHEN T. PACHECO
Raisa Morales

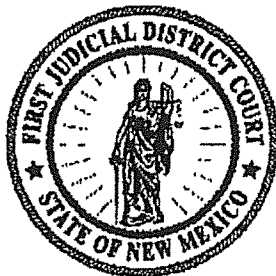
SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: UPS Ground Freight, Inc. d/b/a UPS Freight Address: c/o Corporations Service Company, Registered Agent 123 East Marcy Street, Suite 101 Santa Fe, NM 87501

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on the _____ day of _____, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ *(used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)*

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service).*

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ *(insert defendant's business address)* and by mailing the summons and complaint by first class mail to the defendant at _____ *(insert defendant's last known mailing address).*

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ *(used when defendant is a minor or an incompetent person).*

☐ to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Title (if any)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

Exhibit “C”



CORPORATION SERVICE COMPANY*

Notice of Service of Process

MDM / ALL
Transmittal Number: 16384221
Date Processed: 03/17/2017

Primary Contact: SOP UPS - United Parcel
SOP - PowerBrief - Wilmington
Sop - Scan
Suite 400 2711 Centerville Road
Wilmington, DE 19808

Electronic copy provided to: Tiffany Taylor
Bishop Martin
Sarah Moore
Jamilah Freeman
CSC Test

Entity:	UPS Ground Freight, Inc. Entity ID Number 0027838
Entity Served:	UPS Ground Freight, Inc. d/b/a UPS Freight
Title of Action:	Francisco Espinoza vs. UPS Ground Freight, Inc. d/b/a UPS Freight
Document(s) Type:	Summons/Complaint
Nature of Action:	Personal Injury
Court/Agency:	Santa Fe County First Judicial District Court, New Mexico
Case/Reference No:	D-101-CV-2017-00382
Jurisdiction Served:	New Mexico
Date Served on CSC:	03/17/2017
Answer or Appearance Due:	30 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Jerry Todd Wertheim 505-982-0011
Client Requested Information:	Matter Type: Other/NA

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscglobal.com

Exhibit “D”

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/24/2017 11:21:08 AM
STEPHEN T. PACHECO
Raisa Morales

E. Morales P.I. 6839655
03.21.17 11:36 AM
Court Dep
5693 - Redline #13

SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: Chris Bishop Address: 3528 W. Vespa Drive West Valley, Utah 84119

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

Exhibit “E”

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

FRANCISCO ESPINOZA and
KIMBERLY ESPINOZA,

Plaintiffs,

vs.

Case No. D-101-CV-2017-00382

UPS GROUND FREIGHT, INC.,
D/B/A UPS FREIGHT; CHRIS BISHOP;
UNIVERSITY OF NEW MEXICO
HOSPITAL; and DR. JOHN DOES 1-5;

Case assigned to Thomson, David K.

Defendants.

JURY DEMAND

The plaintiffs, by and through their attorneys, of record at Jones, Snead, Wertheim & Clifford, P.A. (Jerry Todd Wertheim and Samuel C. Wolf) and Heard Robins Cloud LLP (Justin R. Kaufman and Rosalind B. Bienvenu), demand a jury of six and deposit one hundred fifty dollars (\$150.00) with the Court.

Respectfully submitted:

**JONES, SNEAD, WERTHEIM
& CLIFFORD, P.A.**

By /s/Jerry Todd Wertheim
Jerry Todd Wertheim
Samuel C. Wolf
1800 Old Pecos Trail
Santa Fe, NM 87505
Telephone: (505) 982-0011
Facsimile: (505) 989-6288
todd@thejonesfirm.com
sam@thejonesfirm.com

Justin R. Kaufman
Rosalind B. Bienvenu
HEARD ROBINS CLOUD LLP
505 Cerrillos Rd., Suite A209
Santa Fe, New Mexico 87501
Telephone: (505) 986-0600
Facsimile: (505) 986-0632
jkaufman@heardrobins.com
rbienvenu@heardrobins.com

Attorneys for Plaintiffs

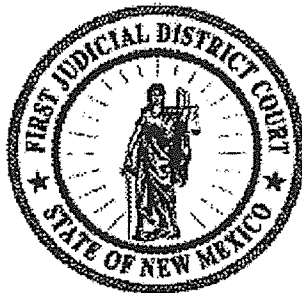
SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: Chris Bishop Address: 3528 W. Vespa Drive West Valley, Utah 84119

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
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 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

[] to _____ (*name of person*), _____, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.

2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: Dr. John Does 1-5 Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
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 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on the _____ day of _____, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ *(used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)*

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service).*

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ *(insert defendant's business address)* and by mailing the summons and complaint by first class mail to the defendant at _____ *(insert defendant's last known mailing address).*

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ *(used when defendant is a minor or an incompetent person).*

[] to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Title (if any)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.

2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: University of New Mexico Hospital Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

[illegible]

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on the _____ day of _____, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

[] to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

[] to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

[] to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

[] to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at _____ (*insert defendant's last known mailing address*).

[] to _____, an agent authorized to receive service of process for
defendant _____.

[] to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of
defendant (used when defendant is a minor or an incompetent person).

[] to _____ (*name of person*), _____, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.

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FILED IN MY OFFICE
DISTRICT COURT CLERK
3/7/2017 10:29:45 AM
STEPHEN T. PACHECO
Victoria Neal

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/24/2017 11:21:08 AM
STEPHEN T. PACHECO
Raisa Morales

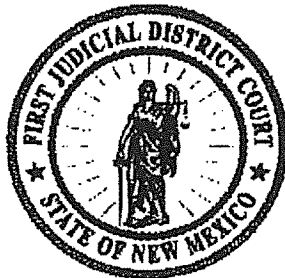
SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: University of New Mexico Hospital Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
COUNTY OF Santa Fe)^{ss}

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Bernalillo County on the 3 day of March, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

☒ to Fontaine Whitney (name of person), Executive Assistant, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

[Signature]
Signature of person making service

Process Server
Title (if any)

Subscribed and sworn to before me this 6 day of March, 2017

[Signature]
Judge, notary or other officer
authorized to administer oaths
Notary
Official title



USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

FILED IN MY OFFICE
DISTRICT COURT CLERK
3/7/2017 10:29:45 AM
STEPHEN T. PACHECO
Victoria Neal

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/24/2017 11:21:08 AM
STEPHEN T. PACHECO
Raisa Morales

SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does I-5	Defendant Name: Dr. John Does I-5 Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
COUNTY OF Santa Fe)^{ss}

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Bernalillo County on the 3 day of March, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

☒ to Fontain Whitney (name of person), Executive Assistant, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

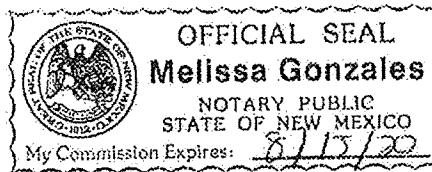
[Signature]
Signature of person making service

Process Server
Title (if any)

Subscribed and sworn to before me this 6 day of March 2017

[Signature]
Judge, notary or other officer
authorized to administer oaths

Notary
Official title



USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

FILED IN MY OFFICE
DISTRICT COURT CLERK
3/13/2017 3:07:58 PM
STEPHEN T. PACHECO
Leticia Cunningham

FILED IN MY OFFICE
DISTRICT COURT CLERK
2/24/2017 11:21:08 AM
STEPHEN T. PACHECO
Raisa Morales

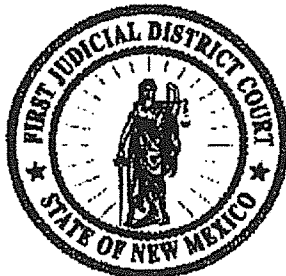
SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does1-5	Defendant Name: University of New Mexico Hospital Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim
Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)

COUNTY OF Santa Fe)^{ss}

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Santa Fe County on the 8th day of March, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

*University of New Mexico Hospital
C/O N.M. Attorney General Hector Balderras*

X to Michael Rivera (name of person), Receptionist, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

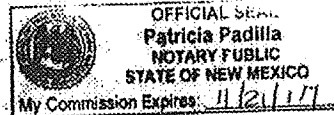
Fees: _____

Mamuel A. Martinez
Signature of person making service

Title (if any)

Subscribed and sworn to before me this 8 day of March, 2017.

[Signature]
Judge, notary or other officer
authorized to administer oaths
Notary
Official title



USE NOTE

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2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

FILED IN MY OFFICE
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STEPHEN T. PACHECO
Leticia Cunningham

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DISTRICT COURT CLERK
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STEPHEN T. PACHECO
Raisa Morales

SUMMONS	
District Court: FIRST JUDICIAL Santa Fe County, New Mexico Court Address: Post Office Box 2268 / 225 Montezuma Ave. Santa Fe, New Mexico 87504 / 87501 Court Telephone No.: 505-455-8250	Case Number: D-101-CV-2017-00382 Assigned Judge: David K. Thomson
Plaintiff(s): Francisco Espinoza and Kimberly Espinoza v. Defendant(s): UPS Ground Freight, Inc., d/b/a UPS Freight; Chris Bishop; University of New Mexico Hospital; and Dr. John Does 1-5	Defendant Name: Dr. John Does 1-5 Address: c/o Steve McKernan, Chief Executive Officer UNM Health Sciences Center Albuquerque, NM 87131

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 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Santa Fe, New Mexico, this 24th day of February, 2017.

STEPHEN T. PACHECO
CLERK OF DISTRICT COURT

By: Raisa Morales
Deputy



/s/Jerry Todd Wertheim

Signature of Attorney for Plaintiff/Pro Se Party
Name: Jerry Todd Wertheim
Address: 1800 Old Pecos Trail, Santa Fe, NM 87505
Telephone No.: (505) 982-0011
Fax No.: (505) 989-6288
Email Address: todd@thejonesfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
COUNTY OF Santa Fe)^{ss}

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☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

Dr. John Does 1-5 1/2 University of N.M.
Hospital
C/O N.M. Attorney General - Hector Balderas

X to Michael Rivera (name of person), Receptionist, (title
of person authorized to receive service. Use this alternative when the defendant is a corporation or
an association subject to a suit under a common name, a land grant board of trustees, the State of
New Mexico or any political subdivision).

Fees: _____

Mamuel A. Maestro
Signature of person making service

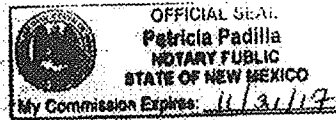
Title (if any)

Subscribed and sworn to before me this 8 day of March, 2017

[Signature]

Judge, notary or other officer
authorized to administer oaths
Notary

Official title



USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]